

REMARKS

Claims 22-36 are pending in the application. Claims 1-3, 6, 7, 10-12, 15-18, 20, and 21 have been canceled and Claims 22-36 are newly presented. Support for the new claims can be found throughout the application, drawings and claims as originally filed and, as such, no new matter has been presented. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

INTERVIEW SUMMARY

Applicant thanks the Examiner for the courtesies extended during a telephonic interview conducted the morning of September 15, 2006 in which the Examiner and the undersigned attorney were the sole participants. The Due et al. (USPN 5,809,690) reference and Claim 1 were discussed. The Examiner noted that amending the claims to describe the mulch shield as having a "self-closing" configuration and "cleats" did overcome the art of record and would likely overcome all other prior art, including seeding/sapling tubes having resilience.

NEWLY PRESENTED CLAIMS

Applicant initially notes that newly presented independent Claims 22, 35 and 36 are included in the elected species (i.e., a closure means that includes a resilient characteristic). Applicant notes that newly presented dependent Claim 33 is included in the elected subspecies A and that newly presented dependent Claim 34 is included in the non-elected subspecies B.

Applicant next notes that newly presented independent Claims 22 and 35 are directed to a mulch shield having a “self-closing” configuration and “cleats” that the Examiner noted in the above-referenced interview summary as overcoming the art of record. Accordingly, Applicant respectfully submits that Claims 22 and 35 are in condition for allowance as the art of record does not teach or suggest each element of these claims.

Applicant submits that Claims 23 through 34 depend from Claim 22 and should be in condition for allowance for the reasons set forth for Claim 22, above.

Applicant notes that newly presented independent Claim 36 is directed to a mulch shield having a “self-closing” configuration, but does not include “cleats”. Applicant notes that Claim 36 specifies that at least one of the upper flange and the lower flange extends substantially continuously about the body when the shield structure is in the second position. Applicant notes that none of the Gearing et al. (WO 03/096791 A1), Due et al. (U.S. Pat. No. 5,809,690), Reed (U.S. Pat. No. 6,067,747) and Koffler et al. (U.S. Pat. No. 4,829,707) references appear to teach or suggest a self-closing structure or a flange that extends substantially continuously about a body. Accordingly, Applicant respectfully submits that newly presented Claim 36 is in condition for allowance.


CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is

believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: October 5, 2006

By: 
Michael D. Zalobsky
Reg. No. 45,512

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

MDZ/cr